



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,602	11/28/2003	Kouji Mitsuhashi	246070US2	8264
22850	7590	10/22/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
DHINGRA, RAKESH KUMAR				
ART UNIT		PAPER NUMBER		
1792				
NOTIFICATION DATE		DELIVERY MODE		
10/22/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com

oblonpat@oblon.com

jgardner@oblon.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/722,602	Applicant(s) MITSUHASHI ET AL.
Examiner RAKESH DHINGRA	Art Unit 1792

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 03 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 9, 10, 12, 14, 15, 31, 32, 38 and 39.

Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.

12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 07/15/09

13. ☐ Other: _____.

/R. D./
Examiner, Art Unit

/Karla Moore/
Primary Examiner, Art Unit 1792

Response to applicant's arguments:

Applicant's has argued that as per claim 9, the resin layer is provided at a lower portion of the barrier coat layer (e.g. 79 – Figs. 6A, 6B of applicant) including a surface contacted with the base material (e.g. 71) and not including a surface contacted with the main layer (e.g. 78), and that in Shih the coatings cannot be formed only at a lower portion of the ceramic barrier layer 24 or the ceramic barrier coating 28 including a surface contacted with the base metal 20 and not including a surface contacted with the ceramic barrier layer 24 or the ceramic barrier coating 28.

Examiner responds that Shih teaches (para. 0044) that the protective coating (sealant) may be applied to directly to the surface of a metal structure (e.g Al or Stainless Steel) within the reactor chamber, or directly onto a barrier layer or directly onto a ceramic barrier liner". Shih also teach (para. 0048) that protective coating (sealant) may be disposed on any suitable structure within the process chamber 5 by any suitable procedure and that various embodiments (Figs. 2-4, 5-11) as shown are by way of examples only). Shih further teach that ceramic barrier layer 24 typically possess pores and interstices which interstitially receive some of the sealant 30a (para. 0048). Since Shih teach that sealant can be applied to directly the substrate, the sealant would interstitially fill the pores in the barrier coat layer applied over the substrate. Thus, Shih teach claim 9 limitation that "at least parts of pores inside the barrier coat layer are sealed by a resin provided at a lower portion of the barrier coat layer including a surface contacted with the base material and not including a surface contacted with the main layer". Applicant's argument that the layer 30a of Shih is applied differently than the applicant's resin layer 79a, is not commensurate with claim 9 limitations. Thus, Shih teach all limitations of claim 9 and the rejection is maintained. Further, in view of above rejection of balance claims 10, 12, 14, 15, 31, 32, 38 and 39 is also maintained. Additionally, in view of comments given above regarding claim 9, the double patenting rejection is also maintained.